

REMARKS

Claims 1-21 are pending and are presently rejected. In an effort to expedite prosecution, Applicants canceled claims 10 and 14 and amended Claims 1, 3, 7, 11-13, 15-21. No new subject matter was added in the amendment of the claims. Support for the amendment of Claim 1 may be found in Claim 10. Claim 3 was amended to correct the proper spelling of "equaling". Claims 7, 11-13 and 16-20 were amended to remove improper multiple dependency. Claims 15 and 21 were amended replacing the term "agitating" with "tapping". Support for the amendment may be found in Claim 10.

Applicants reserve the right to file a continuation application directed to any unclaimed subject matter herein.

35 U.S.C. § 102(b) Rejection of Claims 1-7, 10, 14 and 16-21

Claims 1-7, 10, 14 and 16-21 are rejected as anticipated by Wahl (U.S. 2,857,938). While Applicants respectfully traverse the rejection of these claims, Applicants amended Claims 1, 3 and 16-21 and canceled Claims 10 and 14 in an effort to expedite prosecution. Applicants submit that the rejection is rendered moot in light of the amendments herein.

The Examiner contends that, with respect to Claims 1, 20 and 21, that Wahl discloses a method of filling a plurality of open-ended containers with powder, the method of position a hopper containing powder above the open end of the supported container; mechanically agitating the hopper so as to cause powder to be transferred from the hopper to the container, and mechanically agitating the container. The Examiner points out further limitations allegedly described in Wahl for Claims 2-7 and 16-19.

Claim 1 was amended, incorporating the limitations of Claim 10, to define the agitation as a specific tapping of the hopper and/or the container. Similar amendments were made to Claims 15 and 20. Applicant claims and teaches a specific form of mechanical agitation – namely tapping – that is supplied in such a way that after a predetermined amount of time, a predetermined amount of powder, as well as predetermined density of powder is supplied and reached. The tapping results in positive impulses being imparted such that the particles are moved in a particular direction versus the general non-specific vibrations supplied by devices such as those disclosed in Wahl.

In particular, Applicants disclose that non-specific vibrations do not provide the necessary positive impulses to the powder that is claimed in Applicants' method. Instead, the powder, as agitated by the device taught by Wahl, merely causes the powder particles to move around relative to one another. See Spec. (US2007/0102058, par. 0031). Such non-specific vibration cannot be used to provide a predetermined density of powder within the container and, therefore, cannot be used to ensure that the containers are uniformly and accurately filled, as claimed by Applicant.

Applicants submit that Wahl does not teach a method of tapping or agitation that results in the uniform filling of containers, as described above and claimed by Applicants. Applicants respectfully request, therefore, that the Examiner reconsider and withdraw the 35 U.S.C. § 102(b) rejection of Claims 1-7 and 16-21.

35 U.S.C § 103(a) Rejection of Claims 8, 9, 11-13 and 15

Claims 8, 9, 11-13 and 15 were rejected by the Examiner as obvious over Wahl. While Applicants traverse the rejection of Claims 8, 9, 11-13 and 15, Applicants amended Claim 1, from which Claims 8, 9, 11-13 and 15 ultimately depend, in an effort to expedite prosecution. Applicants submit that the rejection is rendered moot in light of the amendments herein.

The Examiner contends that Wahl discloses the invention "substantially as claimed" in Claims 8, 9, 11-13 and 15. The Examiner admits that Wahl does not disclose (1) a 0.5 mm orifice, (2) mechanical agitation including lifting the hopper and container; (3) tapping 50-500 times; (4) acceleration of approximately 1000G; and (5) vibrating at a frequency between 100 Hz and 1kHz. The Examiner concludes that it would be obvious to one of ordinary skill in the art to employ the above operational sizes and ranges on the Wahl device, since discovering the optimum or workable ranges involves only routine skill in the art.

As discussed above in the previous rejection, Wahl does not teach Applicants' method of filling a container with powder by tapping the hopper and/or container such that a predetermined amount of powder sufficient to fill the container at a predetermined density. Furthermore, Wahl does not teach the described orifice

CONCLUSION

Applicants respectfully request reconsideration of the rejection of the above-mentioned claims and request and early and favorable allowance.

Respectfully submitted,

Date: December 8, 2009

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